

SENATE JOINT RESOLUTION NO. 25

INTRODUCED BY J. ELLIOTT

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA URGING CONGRESSIONAL CONSIDERATION OF ISSUES REGARDING CORPORATE RIGHTS IN RELATION TO DEMOCRACY AND THE RIGHTS OF "NATURAL" CITIZENS.

WHEREAS, the citizens of Montana wish to nurture and strengthen democracy in our state and across our nation; and

WHEREAS, democracy means governance "of, by, and for the people", in which only natural persons or individual human beings participate in that governance; and

WHEREAS, corporations are artificial entities created by law and are not mentioned in the U.S. Constitution; and

WHEREAS, judicial interpretations, beginning with *Santa Clara County v. Southern Pacific Railway Co.*, 118 U.S. 394, 30 L. Ed. 118, 6 Sup. Ct. 1132 (1886), and *Minneapolis & St. Louis Railroad Co. v. Beckwith*, 129 U.S. 26, 32 L. Ed. 585, 9 Sup. Ct. 207 (1889), have resulted in corporations gaining "personhood" status with constitutional rights to free speech, privacy, due process, and equal protection of the laws; and

WHEREAS, the U.S. Congress has never passed legislation that directly addresses the broader issue of corporate personhood and when given an option of broader rights under the Taft-Hartley Act of 1947 chose instead to grant corporations only "free speech" rights in the union certification process; and

WHEREAS, under corporate charters, corporations often are required to be managed solely for the best interests of the corporation, which generally is interpreted to mean providing the greatest financial return to the corporation's shareholders as evidenced in part by section 35-1-418, MCA, which states that corporate directors shall act "in a manner the director reasonably believes to be in the best interests of the corporation"; and

WHEREAS, corporate entities have increased in size and number to a status in which they control vast amounts of our nation's and the world's wealth, as noted in a 1999 Institute for Policy Studies report that said of the world's 100 largest economic entities, 51 are corporations, and 49 are countries; and

WHEREAS, corporate wealth can translate into corporate power as corporations control through direct ownership or through their advertising expenditures a large proportion of our nation's media; and

WHEREAS, corporate wealth can translate into political power through contributions to political races

1 and legislative issues and through lobbying expenditures, as indicated in Montana's statewide Congressional
2 races in 2000, 2002, and 2004 when corporate contributions through political action committees ranged from
3 35% to 41% of the incumbent candidate's total contributions and in 2002 and 2004 when corporate spending
4 on specific ballot initiatives, such as Initiative Measure No. 147 in 2004, is projected to amount to more than 90%
5 of total spending on those initiatives; and

6 WHEREAS, corporate wealth can translate into educational power as corporations invest in various
7 forms of and access to knowledge by funding university research and public school education programs and by
8 restricting through judicial and political means public access to information about the impacts and consequences
9 of corporate activities and products; and

10 WHEREAS, corporate wealth and power can negatively impact "natural" persons financially as these
11 citizens either see services funded below growth levels or face a larger tax bill when corporate income tax
12 revenue falls, as indicated by a Center on Budget and Policy Priorities study that reported that corporate income
13 tax revenue fell 36% in 3 years to \$132 billion in 2003 from \$207 billion in 2000; and

14 WHEREAS, many citizens feel that corporations have too much power as reported in a Business
15 Week/Harris poll from 2000 in which 72% to 82% of the respondents agreed strongly or somewhat that
16 "business has gained too much power over too many aspects of American life".

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18 NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF
19 THE STATE OF MONTANA:

20 That the Montana Legislature finds that corporate wealth and power, corporate focus on profit, and
21 corporate rights as "persons" combine to pose a significant threat to our democracy and the governance of our
22 republic by and for the people.

23 BE IT FURTHER RESOLVED, that the Montana Legislature urge Congress to examine and debate the
24 appropriateness of corporations receiving rights granted to "persons" under the U.S. Constitution, especially
25 those rights granted under the 1st, 4th, 5th, and 14th amendments.

26 BE IT FURTHER RESOLVED, that the Secretary of State send copies of this resolution to each member
27 of the Montana Congressional Delegation.

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